



February 4, 2008

Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re:** *Further Notice of Proposed Rulemaking Associated with Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units; MB Docket No. 07-51*

Dear Commissioners:

In the Further Notice of Proposed Rulemaking Associated with Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units, released November 17, 2007, the Commission is calling for comments regarding the prohibition of exclusive marketing and bulk billing arrangements. This Comment, filed by MDU Communications International, Inc., solely addressed the issue of bulk billing arrangements and provides support for the continued validity of bulk billing and service agreements between Private Cable Operators ("PCOs") and owners of multi-dwelling unit properties ("MDUs").

MDU Communications International, Inc. provides video services to some six hundred MDUs located in the Northeast, Southeast and Midwest regions of the United States. Our properties represent a combination of owner-occupied condominiums, rental units, university residences, care facilities and seasonal communities.

In many of these properties, residents have the ability to choose between our video services, and those of franchise cable, and more recently, telephone providers. However, during the past five years an increasing number of residents, condominium boards, managers and property owners have pursued, requested and signed bulk service agreements due to the significant benefits these agreements provide residents, such as:

1. Programming prices are generally 30-40% below retail prices;
2. Service requirements, for both the property and the resident, as set forth in the service agreements, are generally more stringent than those found in

individual service agreements. Bulk properties are also generally set up on a regular preventative maintenance program, whereas individual residents are not. Therefore residents are “guaranteed” a better level of service and performance and are therefore more satisfied with their overall experience;

3. In the vast majority of our properties receiving bulk services, the best interest of the residents are protected by condominium or tenant associations who vote on and approve the terms of the bulk service agreement. This serves the best interests of these MDU communities as they are comprised of individuals with common interests that demand a better overall service experience; and
4. Residents within bulk properties that wish to subscribe to alternate providers are not prevented from doing so, as generally franchised cable and telephone services are also available in the building since we (as with many PCOs) do not provide telephony or in some cases, broadband services and residents can subscribe to these services directly.

MDU Communications has today, approximately two-hundred and seventy five MDUs signed to bulk service agreements to provide video services serving 45,000 residents. In the vast majority of these properties, the contracts have been originally requested by and ratified by boards or groups comprised of residents living in the property representing other residents living in the property. In a minority of the properties where the bulk agreements have been entered into by property owners or managers, and not ratified by the residents, no benefit generally accrues to these owners or managers other than the enhanced satisfaction the resident receives from lower prices and better service.

Bulk billing agreements are by no means unilateral and are subject to political and market forces so that residents are guaranteed the best product. PCOs, franchised cable and telco providers all have some version of a bulk service program that are offered to MDU's, thus insuring competition between these providers for programming content and cost. Additionally, condominium and tenant boards are elected by residents and operate in the best interest of the residents, and if not, are removed from these decision making positions. Likewise, landlords have the incentive to provide the best product at competitive prices to insure that apartment occupancy remains high.

Our experience clearly demonstrates that condominium boards, property owners, professional property managers, and in particular the residents of MDUs, actively seek bulk agreements as a result of the significant benefits they provide over individual agreements. Our experience also indicates that there are sufficient market forces at work that insure such agreements are to the benefit of the vast majority of residents within a particular MDU.

Although in its Further Notice of Proposed Rulemaking the Commission does not specifically define the “harm” that it is trying to avoid with bulk billing agreements, a likely interpretation would be that the Commission is seeking to insure that such agreements provide more “good” than “harm.” In this instance, bulk billing arrangements may not be ideal for every single resident, but the overall

effect of bulk agreements with its significantly reduced price, more frequent maintenance of systems and better service and the already built-in watchdog groups in the forms of condominium and tenant associations and property managers and owners insisting on competitive products to retain tenants, far exceeds any harm that may ensue to a specific individual resident.

MDU Communications International, Inc. hereby urges the Commission to not place restriction on the contractual rights of two private parties entering into a bulk service and billing arrangement for residents residing in MDUs.

Yours very truly,

Sheldon Nelson  
President and Chief Executive Officer  
MDU Communications International, Inc.